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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,961	04/18/2002	Patrice Leclercq	205,468	8648

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EXAMINER

BAHTA, ABRAHAM

ART UNIT PAPER NUMBER

1775

DATE MAILED: 02/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/031,961

Applicant(s)

LECLERCQ ET AL.

Examiner

Abraham Bahta

Art Unit

1775

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Art Unit: 1775

## DETAILED ACTION

### *Claim Rejections - 35 U.S.C. § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 4-5, 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Wagner

(USP 5,327,607).

Wagner '607 teaches a toothbrush comprising a handle having a longitudinal axis, a toothbrush head having a longitudinal axis wherein the head has a trapezoid shape (see Figs. 2-3). As shown at Figs. 2-3, the larger base of the head appears to be located at the distal end of the toothbrush and the narrow base of the head appears to be formed with the handle. The head includes a generally planar spine (16) and a pair of side panels 18,20. The side panels are connected to the spine (14) along the longitudinal edges of the spine. The flat center portion or spine (16) comprises bristles which are oriented to extend in a direction generally perpendicular to the flat center portion. See Figs. 5, 6-9. Each panel 18, 20 includes a plurality of bristles. See col. 3, lines 35-60.

Art Unit: 1775

Claim 2 and 4: The reference teaches side panels are inclined flats. See col. 3, lines 67 through col. 4, line 5 and Fig. 5, 6-9.

Claim 5: Wagner '607 teaches the bristles that extend from the side panel are inclined from the perpendicular at an acute angle, for example  $30^{\circ}$ . See col. 4, lines 15-17.

Claim 10: The reference teaches the longitudinal axis of the handle is co-aligned with the longitudinal axis of the toothbrush head. See col. 3, lines 42-44 and Fig. 2.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 6-9, and 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner '607.

Wagner is discussed above. Regarding claim 3 and 6, the reference does not require the side panels to have a distance from 1 to 3 mm above the flat center portion or spine (16) as cited in claim 3 and a length ratio as recited in claim 6 ; however, the reference teaches the side panels may be inclined with respect to a plane (25). See col. 4, lines 1-2 and Figs. 7-9. As shown at the figures the side panels are elevated above the spine 16 or plane 25. Since, the reference also teaches that the inclination angle between the side panels and spine (16) or plane (25) (see Figs. 7-9 and col. 4, lines 15-17) may be an acute angle, it would have been obvious to one of ordinary

Art Unit: 1775

skill in the art at the time the invention was made to have varied the distance between the the side panels and the spine (16) or plane (25) by varying the inclined angle so that the length of the bristles on the side panels may be longer than the bristles on spine (16) for effective cleaning of the teeth.

With respect to claim 8, Wagner '607 does not require 40-60 bristles per tuft and a diameter of the tufts to be from 1.7 to 2.8 mm; however, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have selected the desired number of bristles and per tuft and the desired diameter for the tuft so that the toothbrush may cover the desired number of teeth depending on the application for which the product is intended.

Concerning claim 9, the reference does not require the length of the bristles on the side panels to be the same length and the distance between the free ends of the bristles projecting from the one side panel and the free ends of the bristles projecting from the other side panel to have a distance of 2 to 8 mm; however, as discussed above, Wagner teaches the angle of inclination between the side panel and spine (16) or plane (25) may vary or may be acute angle (see col. 4, lines 15-17), therefore, given this teaching, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have varied the angle of inclination between the side panels and spine (16) of the head or plane (25) in order to achieve the desired length of the bristles on the side panel and the desired distance between the free ends of the bristles on one side

Art Unit: 1775

panel and the free ends of the bristles on the other side panel so that the size of the bristles of the toothbrush may vary, thereby covering the desired number of teeth when the toothbrush is in use.

Regarding claims 12 and 13, the references do not require the ratio or range recited in the claims; however, it would have been obvious to one of ordinary skill in the art to have formed the portions of the toothbrush handle of Wagner in a desired diameter in order to accommodate users with limited mobility of the wrist, arm or shoulder and to facilitate easy gripping of the handle.

***Claim Rejections - 35 USC § 103***

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner '607 in view of Kelly (USP 5,758,384).

Kelly is discussed above. The reference does not require the longitudinal axis of the handle to be offset by an angle of less than 20 degrees from the longitudinal axis of the toothbrush head; however, Kelly '384 teaches a toothbrush comprising a handle wherein the handle is offset by an acute angle (5-15°) from the axis of the toothbrush head. See col. 3, lines 56-62 and Fig. 6. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have formed the toothbrush handle of Wagner offset by an acute angle from the axis of the toothbrush head in order to provide a convenient handle to users, for example users having disabilities which have reduced mobility of the wrist, as taught by Kelly. See col. 3, lines 59-67.

Art Unit: 1775

***Claim Rejections - 35 USC § 103***

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner '607 in view of WO 89/01303.

Wagner is discussed above. Wagner does not require two oppositely disposed working sides wherein each side is the mirror image of the other side; however, the concept of disposing two oppositely working sides on a toothbrush head wherein each side is the mirror image of the other side is well known as evidenced by WO '303. WO '303 teaches a toothbrush for simultaneously cleaning both sides of at least one row of teeth wherein the toothbrush has two bristle holders (3) and (6). As shown at the Figure one side of the bristle holder appears to be the mirror image of the other side.

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to have formed a mirror image of one side of the toothbrush holding bristles on the other side of the toothbrush head so that the toothbrush may be used to clean both surfaces of a row of teeth as taught by WO '303. See Abstract.

Any inquiry concerning this communication should be directed to Abraham Bahta whose telephone number is (571) 272-1532. The Examiner can normally be reached Monday-Friday from 11:30 AM -8:00 PM (EST).

Art Unit: 1775

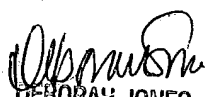
If attempts to reach the Examiner by telephone are unsuccessful, the examiner's supervisor Deborah Jones can be reached on (571) 272-1535. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



A. Bahta

02/03/04



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SUPERVISOR PATENT EXAMINER